



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING

RICK SNYDER
GOVERNOR

MICHAEL P. FLANAGAN
STATE SUPERINTENDENT

May 21, 2015

MEMORANDUM

TO: Local and Intermediate School District Superintendents, ISD
Directors of Special Education, Public School Academy Directors
and Local and ISD Business Officials

FROM: Linda Forward *Linda Forward*
Interim Deputy Superintendent, Education Services

SUBJECT: LEA MOE Final Regulations

The final regulation related to Local Education Agency (LEA) Maintenance of Effort (MOE) was published in the Federal Register (Vol. 80, No. 81 /Tuesday, April 28, 2015 /Rules and Regulations). The regulation is effective July 1, 2015.

The purpose of the LEA MOE requirement is to ensure that LEAs provide the financial support necessary to make a free appropriate public education (FAPE) available to eligible children with disabilities. Generally, LEAs may not reduce the amount of local, or State and local, funds that they spend on the education of children with disabilities when compared to the preceding fiscal year. The Department identified a need for revisions to the LEA MOE requirements based upon fiscal monitoring, audits and questions from States. Most of the changes clarify the way in which the Department has previously interpreted LEA MOE regulations and consolidate requirements from GEPA, EDGAR and appropriations language.

Please note the following provisions in the regulations:

- Clarification of the eligibility standard;
- The eligibility standard describes the LEA MOE requirement that is a condition for an LEA to receive an IDEA Part B subgrant. In order to be eligible for an IDEA Part B grant for the upcoming year, the LEA must develop a budget that demonstrates it *intends* to maintain (or increase) the amount of local, or State and local funds, it spends for the education of children with disabilities when compared to the amount it *actually* expended in the most recent fiscal year for which information is available. This change represents a clearer presentation of the current regulation.

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- Clarification of the compliance standard;
 - The compliance standard prohibits LEAs from reducing the level of expenditures from local, or State and local, funds for the education of children with disabilities below the level of expenditures for that same purpose in the preceding fiscal year. In other words, an LEA must maintain (or increase) the amount of local, or State and local funds, it spends for the education of children with disabilities when compared to the preceding fiscal year. This change represents a clearer presentation of the current regulation.
- Explanation of the Subsequent Years rule; and
 - The Subsequent Years rule governs what level of effort an LEA must maintain in the year after the LEA fails to maintain effort. Under this rule, if during a fiscal year an LEA fails to maintain effort, in the subsequent year, the LEA must restore its level of effort to the level that would have been required had the LEA not failed LEA MOE. The Subsequent Years rule prevents an LEA that failed to maintain effort in one year from permanently reducing its required level of effort due to an LEA MOE failure. This provision was clarified in a 2012 policy letter and has been included in appropriations language in 2014 and 2015.
- Specifying the consequences for an LEA's failure to maintain effort
 - When an LEA fails to maintain effort, the SEA is liable in a recovery action under section 452 of GEPA(20 U.S.C. 1234a) to return to the Department, using non-Federal funds, an amount equal to the amount by which the LEA failed to maintain its level of expenditures in that fiscal year, or the amount of the LEA's IDEA Part B subgrant in that fiscal year, whichever is lower. This is consistent with GEPA and long-standing practice.
- Appendix E has been added to the regulations and provides detailed tables that provide examples of calculating LEA MOE.

Please read through the regulation, including the comments and discussion. If you have questions, forward them to John Andrejack: andrejackj@michigan.gov

cc: Michigan Education Alliance